

Disclosure of beginning to have substantial holding

Section 276, Financial Markets Conduct Act 2013

Note: This form must be completed in accordance with the instructions at the end of the form.

To NZX Limited
and
To SeaDragon Limited

Date this disclosure made: 6 July 2018

Date on which substantial holding began: 5 July 2018

Substantial product holder(s) giving disclosure

Full name(s): BioScience Managers Ventures Pty Limited (**BMV**) as general partner of BioScience Management Partnership LP

Summary of substantial holding

Class of quoted voting products: SeaDragon Limited ordinary shares (SEA)

Summary for BioScience Managers Ventures Pty Limited as general partner of BioScience Management Partnership LP

For this disclosure,—

- | | |
|-------------------------------------|---|
| (a) total number held in class: | 0 (and up to 606,060,606 in total if the maximum number of loan notes issued to BioScience (defined below, but including BMV) become convertible and are converted) |
| (b) total in class: | 4,513,618,718 (and up to 5,422,709,627 in total if the maximum number of loan notes issued to BioScience (defined below, but including BMV) become convertible and are converted) |
| (c) total percentage held in class: | 0% (and up to 11.1763% in total if the maximum number of loan notes issued to BioScience (defined below, but including BMV) become convertible and are converted) |

BSM acts as the investment manager for BMV. As such BSM is a person whose directions, instructions or wishes BMV may be accustomed to act in relation to financial products of SEA.

For clarity, One Funds Management Limited as trustee for Asia Pacific Healthcare Fund II (**OFM Disclosure**) disclosed a separate holding on or about the date of this disclosure (**OFM Disclosure**). The financial products referred to in the OFM Disclosure exclude the financial products in this disclosure, and any financial products referred to in this notice are excluded from the OFM Disclosure. BSM is also the investment manager for OFM and, as

such, BSM has a relevant interest in the aggregate of the financial products disclosed under this disclosure and under the OFM Disclosure.

Details of relevant interests

Details for BioScience Managers Ventures Pty Limited as general partner of BioScience Management Partnership LP and BioScience Managers Pty Limited (as the investment manager for BMV, and therefore as a person who whose directions, instructions or wishes BMV may be accustomed to act in relation to financial products of SEA)

Nature of relevant interest(s): Power to control acquisition of ordinary shares in SeaDragon through conversion of convertible loan notes. The relevant interest is conditional because the conversion feature of the loan notes is conditional on shareholder approval. The relevant agreement document (being the second amended and restated CLN as extracted from schedule 3 of the DoA) (comprising 30 pages) is attached to this notice.

For that relevant interest,—

- (a) number held in class: 606,060,606
- (b) percentage held in class: 11.1763%
- (c) current registered holder(s): N/A
- (d) registered holder(s) once transfers are registered: Unknown

Please refer to the note above relating to BSM, OFM and the OFM Disclosure.

Details of transactions and events giving rise to substantial holding

Details of the transactions or other events requiring disclosure: On 5 July 2018, BioScience Managers Ventures Pty Ltd as general partner of BioScience Management Partnership LP (BMV) entered into a deed of amendment and restatement (DoA) with SeaDragon Limited (SeaDragon), Comvita Limited (Comvita), Pescado Holdings Limited (Pescado) and One Funds Management Limited as trustee for Asia Pacific Healthcare Fund II (OFM and, together with BMV, BioScience). The DoA relates to, among other documents, a convertible loan note agreement dated 30 May 2016 entered into between SeaDragon and Comvita (Original CLN).

Under the Original CLN, SeaDragon has issued convertible loan notes to Comvita having a face value of \$3,000,000. The conversion price of these existing notes is currently \$0.008 per share. But, subject to shareholder approval, the DoA provides for this price to be reduced to \$0.0033 per share.

Under the DoA, OFM, BMV and Pescado have become party to the Original CLN (as amended and restated). BMV may be required by SeaDragon to subscribe for loan notes having an aggregate face value of up to \$2,000,000 and OFM may be required by SeaDragon to subscribe for loan notes having an aggregate face value of up to \$1,000,000. Pescado may be required by SeaDragon to subscribe for loan notes having an aggregate face value of up to \$3,000,000.

Certain aspects of the DoA are conditional on approval by ordinary resolution of SeaDragon’s shareholders (intended to be put to a meeting of shareholders to be held on 8 August 2018). If those approvals are obtained, the loan notes will convert into shares in SeaDragon (at a conversion price of \$0.0033 per share) on maturity (31 March 2020) or earlier at the option of the relevant subscriber. Conversion of BVM’s notes cannot occur separately to conversion of OFM’s notes and the numbers and percentages set out in this notice assume that conversion of both BMV’s and OFM’s notes occur.

Important Note

Unless otherwise stated, the numbers and percentages and shares used in this notice:

- (a) are based on a total of 4,513,618,718 SeaDragon ordinary shares currently on issue;
- (b) assume that OFM converts convertible notes with an aggregate face value of \$1,000,000 at a conversion price of \$0.0033 per share (resulting in the issue of 303,030,303 shares) and that BMV converts convertible notes with an aggregate face value of \$2,000,000 at a conversion price of \$0.0033 per share (resulting in the issue of 606,060,606 shares);
- (c) assume that neither Comvita nor Pescado converts any convertible loan notes;
- (d) assume that no options issued by SeaDragon are exercised; and
- (e) assume that no other ordinary shares in SeaDragon are issued or repurchased.

Additional information

Address(es) of substantial product holder(s): BioScience Managers Ventures Pty Limited as general partner of BioScience Management Partnership LP

and

BioScience Managers Pty Limited

Level 10, 330 Collins Street
Melbourne
Victoria 3000
Australia

Contact details: Matt McNamara
(+61) 3 9618 8216
mm@biosciencemanagers.com

Matt McNamara is also a director of SeaDragon Limited. This disclosure also constitutes disclosure for the purposes of the directors’ and senior managers’ disclosure obligations.

Name of any other person believed to have given, or believed to be required to give, a disclosure under the Financial Markets Conduct Act 2013 in relation to the financial products to which this disclosure relates: Comvita, OFM, Dame Adrienne Stewart, Mark Stewart and Todd Stewart.

Certification

I, Matt McNamara, certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

Convertible Loan Note Agreement (Second Amendment and Restatement)

SeaDragon Limited (the **Company**)

Comvita Limited (**Comvita**)

Pescado Holdings Limited (**Pescado**)

One Funds Management Limited as trustee for Asia Pacific
Healthcare Fund II (**OFM**) and BioScience Managers

Ventures Pty Ltd as general partner of BioScience
Management Partnership LP (**BMV** and, together with OFM,
BioScience)

MinterEllisonRuddWatts

Convertible Loan Note Agreement (Second Amendment and Restatement)

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Details

Date 30 May 2016, as amended and restated as of 30 June 2018 and further amended and restated on [●] August 2018

Parties

Name **SeaDragon Limited**
Company number 310577
Short form name **Company**
Notice details 12 Nayland Road, Stoke, Nelson, New Zealand
Email Colin.Groves@seadragon.co.nz
Attention Colin Groves

Name **Comvita Limited**
Company number 194391
Short form name **Comvita**
Notice details 23 Wilson Road South, Paengaroa, Bay Of Plenty, New Zealand
Email Mark.Sadd@comvita.com
Attention Mark Sadd

Name **Pescado Holdings Limited**
Company number 5960494
Short form name **Pescado**
Notice details Unit 2, 21 Leslie Hills Drive, Riccarton, Christchurch 8011, New Zealand
Email Mark.Stewart@masthead.co.nz
Attention Mark Stewart

Name **One Funds Management Limited** as trustee for **Asia Pacific Healthcare Fund II**
Company number ACN 124 669 192
Short form name **OFM**

Name **BioScience Managers Ventures Pty Ltd** as general partner of **BioScience Management Partnership LP**
Company number ACN 609 761 033
Short form name **BMV** and, together with OFM, **BioScience**
Notice details OFM: Level 11, 20 Hunter Street, Sydney, NSW 2000, Australia
BMV: Level 10, 330 Collins Street, Melbourne, Victoria 3000, Australia
Email OFM: bioscience@oneinvestment.com.au
BMV: mm@biosciencemanagers.com
Attention Matt McNamara

Background

- A Comvita has subscribed for 3,000,000 convertible loan notes issued by the Company.
- B Each of Pescado and BioScience have subscribed for 875,000 loan notes issued by the Company.

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this Agreement:

Agreement means this agreement, including any Schedules.

BioScience means OFM and BMV.

BioScience Notes mean the New Notes of \$1.00 each issued to BioScience on the terms of this Agreement.

Board means the board of directors of the Company.

Business Day means a day that is not a Saturday, Sunday, bank holiday or public holiday in Auckland, New Zealand.

Comvita Notes mean the 3,000,000 Notes issued to Comvita on the terms of this Agreement.

Conversion Date means a date (if any) on which the Notes are converted into Shares pursuant to clause 5.

Conversion Notice means a notice in the form set out in Schedule 3.

Conversion Price means \$0.0033 per Share.

Enforcement has the meaning given to it in the Security Sharing Deed.

Event of Default means an event or circumstance specified in clause 8.1.

Finance Document means:

- (a) this Agreement;
- (b) any Note;
- (c) the deed of amendment and restatement dated on or about 2 July 2018 between the Company and the Noteholders;
- (d) the general security deed dated 30 May 2016 granted by the Company in favour of Comvita;
- (e) the general security deed dated 18 May 2018 granted by the Company in favour of Pescado;
- (f) the general security deed dated 18 May 2018 granted by the Company in favour of OFM (as amended and restated);
- (g) the security sharing deed dated 18 May 2018 between the Company, Pescado and OFM;

- (h) the security sharing deed dated on or about 8 August 2018 between the Company and the Noteholders;
- (i) the general security deeds dated on or about 8 August 2018 granted by the Company and the Subsidiaries in favour of each Noteholder; and
- (j) any other document which the Company and the Noteholders agree is a 'Finance Document'.

Insolvency Event means the occurrence of any of the following events:

- (a) a distress, attachment, execution or other legal process for an amount of or in excess of NZ\$250,000 is levied or enforced on or against assets of the Company or any Subsidiary and is not discharged or stayed within 14 days;
- (b) a receiver, trustee, manager, statutory manager, administrator or similar officer is appointed in respect of the Company or any Subsidiary or any of the Company's or any Subsidiary's assets;
- (c) a present or future security interest for an amount of or in excess of NZ\$250,000 over or affecting assets of the Company or any Subsidiary is enforced;
- (d) an application is made (other than frivolous or vexatious application which is contested in good faith by appropriate proceedings) to a court for an order appointing a liquidator, provisional liquidator, interim liquidator, receiver, manager, receiver and manager, administrator, administrative receiver, trustee in administration, statutory manager or similar officer in respect of the Company or any Subsidiary, or a resolution is passed or proposed for the appointment of any such officer, or one of them is appointed;
- (e) the Company or any Subsidiary ceases or threatens to cease to conduct all or a substantial part of its business, or disposes or threatens or agrees to dispose of (either by a single transaction or series of transactions whether related or not and whether voluntary or involuntary) all or a substantial part of its business or assets;
- (f) the Company or any Subsidiary is unable to pay its indebtedness as it falls due or a moratorium is declared on, any of its indebtedness;
- (g) an insolvency event (however described) in relation to the Company or any Subsidiary occurs for the purposes of any other Finance Document;
- (h) any step is taken to appoint or with a view to appointing an administrator in respect of the Company or any Subsidiary, or a statutory manager or any recommendation is made to appoint a statutory manager by the Financial Markets Authority under the Corporations (Investigation and Management) Act 1989 in respect of the Company, any Subsidiary or any associated person (as defined in that Act) or any of those persons is declared to be under statutory management;
- (i) any step is taken to declare or with a view to declaring any of the persons referred to in sub-clause (h) above to be a corporation at risk under the abovementioned Act or any of those persons is declared to be a corporation at risk; or
- (j) any step is taken for the purpose of the Company or any Subsidiary entering into any assignment, arrangement or compromise with, or for the benefit of, its creditors generally or any class of them,

other than where, in the case of any of the events referred to in sub-clause (c) to (d) above, such event takes place for the purpose of and is followed by a reconstruction, amalgamation or reorganisation (not involving or arising out of insolvency) approved in writing by each of the Noteholders.

Interest Rate means:

- (a) in respect of the Comvita Notes, 7.95% per annum; and
- (b) in respect of the New Notes:
 - (i) at all times up to but excluding the Shareholder Approval Date, 12% per annum; and
 - (ii) at all times on and from the Shareholder Approval Date, 7.95% per annum.

Issue Price means, in respect of each Note, \$1.00.

Maturity Date means 31 March 2020.

Maturity Time means 5:00pm on the Maturity Date.

New Noteholders means Pescado and BioScience and **New Noteholder** means any one of them.

New Notes means loan notes of \$1.00 each issued to the New Noteholders, regardless of the date of issue of such New Notes.

Noteholders means the New Noteholders and Comvita, and a **Noteholder** means any one of them.

Notes means the Comvita Notes together with the New Notes, and a reference to:

- (a) a Note that is **outstanding** as at a particular date means a Note that has not been converted, repaid, redeemed or cancelled, as applicable, in each case in accordance with this Agreement, before that date; and
- (b) a Note that has been **issued** means any Note that is issued in accordance with this Agreement (including any such Note issued and subsequently converted, repaid, redeemed or cancelled, as applicable).

Note Certificate means, in respect of a Note or Notes, a certificate in the form set out in Schedule 2.

Note Issue Date means the date specified in the relevant Request Notice as the date Notes will be subscribed for and issued.

NZSX means the main board equity security market operated by NZX Limited.

NZ Noteholder means a Noteholder that, for the purposes of the Tax Act:

- (a) is resident in New Zealand; or
- (b) is not resident in New Zealand and derives interest (or any payment deemed by law to be interest) under this Agreement for the purposes of a business they carry on in New Zealand through a fixed establishment in New Zealand.

Obligors means the Company and each of its Subsidiaries (and **Obligor** means any one of them).

Original CLN Agreement means the convertible loan note agreement dated 30 May 2016 between the Company and Comvita.

Overseas Investment Act means the Overseas Investment Act 2005.

OIO Consent means consent under the Overseas Investment Act to the conversion of Notes pursuant to clause 5.2.

Pescado Notes mean the New Notes of \$1.00 each issued to Pescado on the terms of this Agreement.

Principal Amount means, at any time, in respect of any outstanding Notes, an amount equal to the aggregate of the Issue Price of those Notes.

Quarter Date means 31 March, 30 June, 30 September and 31 December (as applicable).

Requested Notes means the number of Notes requested to be subscribed for in a Request Notice.

Request Notice means a notice provided by the Company to the relevant Noteholder in compliance with clauses 2.2 and 2.4, and in the form set out in Schedule 1.

RWT Exemption Certificate has the meaning set out in section YA 1 of the Tax Act.

Security Sharing Deed means the Security Sharing Deed entered into between the Company and the Noteholders with respect to the amounts outstanding under the Notes.

Shareholder Approval Date has the meaning given to that term in the deed of amendment and restatement relating to this Agreement entered into by, among others, the Company and the Noteholders and dated on or about 2 July 2018.

Shareholders means the shareholders of the Company.

Shares means ordinary shares in the capital of the Company.

Stamp Act means the Stamp and Cheque Duties Act 1971.

Subsidiary means a subsidiary (within the meaning given to that term in the Companies Act 1993) of the Company.

Takeovers Code means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210), and includes any applicable exemption granted in respect thereof.

Tax Act means the Income Tax Act 2007.

Tax Credit means a credit against, relief or remission for, or repayment of any tax.

Tax Deduction has the meaning set out in clause 6.1.

Trust means Asia Pacific Healthcare Fund II and **Trustee** means One Funds Management Limited.

1.2 Construction of certain references

In this Agreement, unless the context otherwise requires, any reference to:

an **agreement** also includes a contract, deed, licence, franchise, undertaking and other document or legally enforceable arrangement (in each case, whether or not in writing, present or future) and includes that document as amended, assigned, supplemented, novated or substituted from time to time;

assets includes the whole and any part of the relevant person's business, undertaking, property, revenues and rights (in each case, present and future) and reference to an asset includes any legal or equitable interest in it;

borrowed money includes:

- (a) money borrowed or raised by any means and the deferred purchase price of assets and services except for assets and services obtained in the ordinary course of business on normal trade terms;
- (b) money borrowed or raised by drawing, accepting, endorsing or discounting bills of exchange; and

- (c) indebtedness in respect of rental or lease payments under finance leases and guarantees of borrowed money of another person;

compromise includes a compromise as defined in section 227 of the Companies Act 1993;

costs incurred by a person include all commissions, charges, losses, expenses (including legal fees on a solicitor and own client basis) and taxes incurred by that person;

indebtedness includes any obligation (whether present or future, actual or contingent, secured or unsecured, joint or several, as principal, surety or otherwise) relating to the payment of money;

loss includes loss of profit and loss of margin;

material adverse effect means something, which in the reasonable opinion of a Noteholder, has or is likely to have, a material adverse effect on:

- (a) the financial condition, business, or operations of the Company;
- (b) the ability of the Company to perform or comply with its obligations under a Finance Document; or
- (c) the validity or enforceability of the whole or any part of a Finance Document or any rights or remedies of a Noteholder under a Finance Document;

a **person** includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, a state, an agency of a state and any other entity (in each case, whether or not having separate legal personality);

rights includes authorities, consents, discretions, remedies, powers and causes of action;

a **security interest** includes:

- (a) a mortgage, pledge, charge, lien, hypothecation, encumbrance, deferred purchase, title retention, finance lease, contractual right of set-off, flawed asset arrangement, sale-and-repurchase and sale-and-leaseback arrangement, order and other arrangement of any kind, the economic effect of which is to secure a creditor; and
- (b) a “security interest” as defined in section 17(1)(a) of the Personal Property Securities Act 1999 (NZ);

an Event of Default **subsists** until it is either remedied or otherwise waived;

tax(es) includes any levy, impost, stamp or other duty, and any other charge, deduction or withholding of a similar nature (including any penalty or interest in connection with any failure to pay or any delay in paying any of the same);

writing includes a facsimile transmission, an email communication and any means of reproducing words in a tangible and permanently visible form;

a reference to a **party, clause, schedule** or **annexure** is a reference to a party to, clause of, schedule to or annexure to, this Agreement;

the word **including**, when introducing an example, does not limit the meaning of the words to which the example relates;

the singular includes the plural and vice versa;

any legislation includes a modification and re-enactment of, legislation enacted in substitution for and a regulation, order-in-council and other instrument from time to time issued or made under, that legislation; and

a party to this Agreement or another agreement includes its successors and its permitted assignees and transferees.

Headings and the table of contents are to be ignored in construing this Agreement.

Unless this Agreement provides that a right or obligation is owed to or by OFM or BMV individually (in which case the right or obligation of the relevant party will be several), OFM and BMV shall jointly have the rights and obligations of BioScience under this Agreement and, for the purposes of this Agreement, OFM and BMV shall be treated as a single person and each may bind the other in respect of matters under this Agreement. BioScience's obligation under clause 2 of this Agreement shall be interpreted subject to the following:

- (a) OFM's obligation shall be limited to subscribing for the first 1,000,000 BioScience Notes;
- (b) BMV's obligation shall be limited to subscribing for the remaining 2,000,000 BioScience Notes; and
- (c) OFM and BMV shall otherwise be treated as a single Noteholder.

For the purposes of determining compliance with the minimum thresholds set out in clause 2.4(iii), the number of BioScience Notes to be issued to OFM and BMV shall be aggregated and treated as one request.

Except as provided in the preceding three sentences, the liability of OFM under this Agreement is limited to 1/3 of the aggregate liability of BioScience, and the liability of BMV under this Agreement is limited to 2/3 of the aggregate liability of BioScience.

2. Issue of Convertible Notes

2.1 Issued Notes

The parties acknowledge and agree that the Company issued, and the relevant Noteholder paid to the Company the Issue Price for:

- (a) 1,500,000 Comvita Notes on 30 May 2016;
- (b) 500,000 Comvita Notes on 24 August 2016;
- (c) 1,000,000 Comvita Notes on 1 December 2017;
- (d) 875,000 Pescado Notes on 6 July 2018; and
- (e) 875,000 BioScience Notes to OFM on 6 July 2018.

2.2 New Noteholders – Request Notice

Subject to clause 3.1(d), the Company may give each New Noteholder one or more Request Notices, provided that:

- (a) the number of Pescado Notes to be issued under this Agreement may not, in aggregate with the Pescado Notes referred to in clause 2.1(d) and any Pescado Notes that have converted to Shares in accordance with clause 5, exceed 3,000,000;
- (b) the number of BioScience Notes to be issued under this Agreement may not, in aggregate with the BioScience Notes referred to in clause 2.1(e) and any BioScience Notes that have converted to Shares in accordance with clause 5, exceed 3,000,000 and:
 - (i) the first 1,000,000 BioScience Notes to be issued under this Agreement are to be issued to OFM; and
 - (ii) the remaining 2,000,000 BioScience Notes to be issued under this Agreement are to be issued to BMV; and

- (c) the Company gives a Request Notice to both New Noteholders at the same time and in the same amount.

2.3 Use of funds

The Company undertakes that it shall apply the proceeds from the issue of the New Notes in accordance with clause 7.1.

2.4 Request Notices

- (a) Upon receipt of a Request Notice, each New Noteholder must:
 - (i) countersign the Request Notice; and
 - (ii) deliver the countersigned Request Notice to the Company prior to the relevant Note Issue Date specified in that Request Notice.
- (b) Notwithstanding any other provision of this Agreement, the obligations of each New Noteholder in relation to a Request Notice is conditional upon:
 - (i) **(Request Notice)** the New Noteholder having received a Request Notice by 10:00am at least five Business Days (or such shorter period as may be agreed by the New Noteholders) before the proposed Note Issue Date;
 - (ii) **(Note Issue Date)** the proposed Note Issue Date being a Business Day prior to the Maturity Date;
 - (iii) **(number of Notes)** the number of Notes to be issued to a New Noteholder pursuant to any Request Notice being a minimum of:
 - (A) 500,000; or
 - (B) if the difference between the total Notes issued to a New Noteholder and the aggregate total of 3,000,000 Notes that can be issued to that New Noteholder in accordance with clause 2.2 is less than 500,000, that difference;
 - (iv) **(representations true)** the representations and warranties set out in this Agreement being true and accurate in all material respects and not misleading in any material respect as of the date of the Request Notice by reference to the facts and circumstances existing on that date; and
 - (v) **(no Event of Default)** no Event of Default is subsisting.

2.5 Issue and subscription

- (a) The parties acknowledge and agree that on each Note Issue Date:
 - (i) each New Noteholder:
 - (A) will subscribe for the Requested Notes; and
 - (B) will pay to the Company the aggregate Issue Price for the Requested Notes; and
 - (ii) subject to the relevant New Noteholder complying with clause 2.5(a), the Company will issue the relevant Requested Notes to that New Noteholder.
- (b) The Company will issue to the relevant New Noteholder a Note Certificate in respect of the Requested Notes issued under this clause 2.5.

2.6 Top Up Notes

If the Company has delivered a Request Notice to a New Noteholder and the Company has not received from that New Noteholder (the **Defaulting New Noteholder**) the aggregate Issue Price for the Requested Notes (the **Defaulted Amount**) by the Note Issue Date in accordance with clause 2.5(a)(i), then:

- (a) the Company will notify the non-defaulting New Noteholder of such default (the **Notice of Default**);
- (b) the non-defaulting New Noteholder may elect to subscribe for such number of Notes as is equal to the Defaulting New Noteholder's Requested Notes (the **Top Up Notes**) by written notice to the Company by 5:00pm on the date falling two Business Days after the date of the Notice of Default (the **Top Up Notice**) provided that the aggregate number of New Notes issued to that Noteholder, including the number of New Notes to be issued in the Top Up Notice, does not exceed 3,000,000;
- (c) upon receipt of a Top Up Notice, the Note Issue Date for the Top Up Notes shall be deemed to be a date that is two Business Days after the date of the Top Up Notice (unless a shorter period is agreed between the Company and the non-defaulting New Noteholder), and on such Note Issue Date:
 - (i) the non-defaulting New Noteholder:
 - (A) will subscribe for the Top Up Notes; and
 - (B) will pay to the Company an amount equal to the Defaulted Amount; and
 - (ii) subject to the non-defaulting New Noteholder complying with clause 2.6(c)(i), the Company will issue the Top Up Notes to the non-defaulting New Noteholder.

The provisions of this clause 2.6 and any subscription by a non-defaulting New Noteholder of any Top Up Notes is without prejudice to any liability of a Defaulting New Noteholder in respect of any breach of this Agreement.

2.7 Acknowledgement of indebtedness

The Company acknowledges that it is indebted to the Noteholders in respect of the Principal Amount of the Notes issued and outstanding together with any amounts of interest accrued and unpaid in respect of those Notes as set out in this Agreement.

2.8 Security and intercreditor arrangements

The obligations of the Company under this Agreement and in respect of the Notes (including the obligation to allot Shares upon conversion of Notes) are secured by:

- (a) the general security deed dated 30 May 2016 granted by the Company in favour of Comvita;
- (b) the general security deed dated 18 May 2018 granted by the Company in favour of Pescado;
- (c) the general security deed dated 18 May 2018 granted by the Company in favour of BioScience, as amended and restated as of 30 June 2018; and
- (d) the general security deed (including a cross guarantee) dated on or about the date of this Agreement granted by the Company and its subsidiaries to each Noteholder.

The Company and Pescado agree that this Agreement and the Notes issued pursuant to it are each a "Secured Document" for the purposes of the general security deed referred to in (b) above.

2.9 Further assurances

- (a) The Company shall deliver to the Noteholders any document, and shall do any other thing, to ensure all the Notes are validly issued and enforceable under this Agreement.
- (b) Each Noteholder shall deliver to the Company and the other Noteholders any document, and shall do any other thing, to ensure all of that Noteholder's Notes are validly issued and enforceable under this Agreement.

3. Repayment

3.1 Prepayment

- (a) Subject to clause 3.1(c) below, the Company may repay the Principal Amount (together with all accrued and unpaid interest) in respect of all (but not some only) of the Notes held by a Noteholder at any time on or prior to the applicable Maturity Time by giving that Noteholder two Business Days' written notice (a **Repayment Notice**), and upon such repayment:
 - (i) all of that Noteholder's Notes are automatically cancelled and may not be re-issued; and
 - (ii) no further Notes may be issued (to any person) pursuant to this Agreement.
- (b) A Noteholder, upon receipt of a Repayment Notice, must notify the Company in writing of the bank account for repayment within one Business Day.
- (c) The Company must not give a Repayment Notice to a Noteholder unless a Repayment Notice is given simultaneously to all other Noteholders in respect of the entire Principal Amount (together with all accrued and unpaid interest) owing to those other Noteholders as at the date of such Repayment Notice. The Company may not give a Repayment Notice to a Noteholder if that Noteholder has previously given the Company a Conversion Notice with respect to any of its then outstanding Notes. The Company may, however, validly give a Repayment Notice to the other Noteholders that have not issued such a Conversion Notice.
- (d) The Company may not issue a Request Notice to a Noteholder after the date of a Repayment Notice.
- (e) A Repayment Notice is irrevocable and the Company must comply with any Repayment Notice given or deemed to have been given.

3.2 Repayment

At any time whilst an Event of Default subsists, a Noteholder may (in addition to the Noteholder's other rights) give a notice (an **EoD Notice**) to the Company requiring the Company to repay, on the date specified in that notice, the Principal Amount (together with all accrued and unpaid interest) in respect of the Notes held by that Noteholder. The Company shall comply with any such notice.

3.3 Proportionate payments

- (a) Any payment, prepayment or repayment of Notes made by, or on behalf of, the Company may only be effected if made *pari passu* with respect to all then outstanding Notes.
- (b) A Noteholder may not agree to defer the Company's repayment obligation without the prior written consent of all Noteholders.

4. Interest

4.1 Accrual of interest

Interest in respect of the Principal Amount of each Note accrues daily at the applicable Interest Rate, and is calculated on the actual number of days elapsed and on the basis of a 365-day year from and including the relevant Note Issue Date to, but not including, the date on which that Note is repaid under clause 3, converted into shares under clause 5 or otherwise cancelled, redeemed or repaid in accordance with this Agreement.

4.2 Payment of interest

Interest which accrues on the Principal Amount of each Note up to (but excluding) the applicable Maturity Date shall, unless it is paid earlier in accordance with clause 3, be payable within 5 Business Days after each Quarter Date in arrears by the Company in cash.

4.3 Payment

Unless otherwise specified, all amounts payable to a Noteholder by the Company under a Finance Document must be made:

- (a) if any date for repayment is not a Business Day, on next Business Day;
- (b) in immediately available, cleared funds for value on the due date to the bank account (if any) specified by the relevant Noteholder;
- (c) in New Zealand dollars free and clear of any restriction or condition; and
- (d) except to the extent required by law, without any deduction or withholding for or on account of tax or on any other amount, whether by way of set-off, counterclaim or otherwise.

4.4 Default interest

- (a) Default interest accrues daily on the Principal Amount of each Note that is due and payable by the Company (including on unpaid interest under this clause):
 - (i) from and including the due date (or, for an amount payable by reimbursement or indemnity, any earlier date the amount was incurred), up to but excluding the date of actual payment; and
 - (ii) at the rate of 2% above the applicable Interest Rate.
- (b) The Company must pay to the Noteholders accrued default interest under this clause 4.4 on the last Business Day of each calendar month or on demand.

4.5 Defaulting New Noteholder Interest

Notwithstanding anything else to the contrary in this clause 4, Interest in respect of the Principal Amount of each Note held by a Defaulting New Noteholder shall be reduced by 2% of the applicable Interest Rate for the period on and including the date of the applicable Notice of Default to and excluding the earlier to occur of:

- (a) the date of issue of the Top Up Notes and the payment by the non-defaulting New Noteholder of the full amount of the Defaulted Amount; and
- (b) the date the Defaulting New Noteholder pays the full amount of the Defaulting Amount to the Company in satisfaction of the Issue Price for the relevant Requested Notes.

5. Conversion

5.1 Conversion Notice

Each Noteholder has the option to issue the Company with a Conversion Notice. A Noteholder may only issue a Conversion Notice in respect of all (and not some only) of their Notes outstanding at that time and shall not be entitled to issue a Conversion Notice in the event it has defaulted in its obligations under clause 2.5(a) and has not made the Company whole in respect of any such default. A Noteholder may not issue a Conversion Notice if the Company has given a Repayment Notice.

5.2 Automatic Conversion

- (a) Unless an Event of Default subsists at the Maturity Time, each Noteholder shall be deemed to have served a valid Conversion Notice on the Company in respect of all its then outstanding Notes such that the date of issue of the relevant Shares will take effect on the Maturity Date.
- (b) In the event than an Event of Default subsists on the Maturity Time, the Principal Amount (together with all accrued and unpaid interest) in respect of the Notes shall become due and payable at that time and, until a Noteholder gives or is deemed to give a Conversion Notice to the Company, that Noteholder shall be entitled (subject to the terms of the Finance Documents) to exercise its Enforcement rights.
- (c) In the event than an Event of Default subsists on the Maturity Time, but such Event of Default ceases to subsist or is waived in writing by all Noteholders prior to any Enforcement (the **EOD Resolution Date**), then the provisions of clause 5.2(a) and 5.10(d) shall apply as if references to the Maturity Date are references to the EOD Resolution Date.

5.3 Conversion to Shares

- (a) Within five Business Days of receipt, or deemed receipt, of a Conversion Notice under and in accordance with clause 5.1, 5.2 or 5.10:
 - (i) the Company shall issue to the relevant Noteholder the number of Shares determined in accordance with clause 5.4 by entry of that Noteholder's name as the holder of those Shares into the Company's share register; and
 - (ii) upon completion of the relevant details into the Company's share register, the Principal Amount of the Noteholder's Notes shall be applied by the Company to pay up in full the issue price of the Shares and all obligations under or in respect of the Principal Amount of such Notes shall be deemed to be satisfied and discharged.
- (b) The parties acknowledge and agree that the Notes cannot be converted into Shares other than in accordance with the terms and the conditions of this Agreement.

5.4 Number of Shares on Conversion

The number of Shares into which a Note shall be converted shall be determined in accordance with the following formula, and rounded to the nearest whole Share:

$$A = B / C$$

Where

- A = Number of Shares
- B = The Principal Amount of that Note
- C = The Conversion Price

5.5 Shares rank equally and have same rights

All Shares issued on conversion of any Notes shall:

- (a) rank equally in all respects with, have the same rights as (including as to dividends), and form one class with, the Shares on issue as at the Conversion Date; and

- (b) be free from any security interest, charge, lien or other encumbrance to the Noteholders.

5.6 Reorganisation

If there is a consolidation or subdivision of the share capital of the Company (or any securities derived from it) (**Reorganisation**) between the date of this Agreement and the Maturity Time (inclusive), then the Conversion Price will be deemed to be adjusted pro rata to the extent of such Reorganisation. For example, if there were a 20-for-1 consolidation of shares in the Company, then the Conversion Price shall be increased by a multiple of 20. The Company shall provide the Noteholders with a notice in writing after the occurrence of a Reorganisation setting out the adjusted Conversion Price.

5.7 All Notes convertible

For the avoidance of doubt, the conversion of Notes to Shares pursuant to this clause applies to all Notes issued under the terms of this Agreement regardless of when such Notes were issued (including Notes previously issued without such conversion terms).

5.8 Payment of Interest

Within five Business Days of receipt of a Conversion Notice under and in accordance with clause 5.1, the Company shall pay the relevant Noteholder interest on the Notes subject to such Conversion Notice calculated in accordance with this Agreement. Accrued and unpaid interest shall not convert to Shares.

5.9 Converted Notes cannot be redrawn; conversion does not affect remaining commitment

The parties acknowledge and agree that:

- (a) any Notes which convert into Shares shall not be capable of being re-issued (such that, notwithstanding conversion, the Notes will count towards the relevant maximum number of Notes set out in clause 2.2); and
- (b) conversion of a Noteholder's Notes does not effect that Noteholder's remaining commitment to subscribe for Notes up to the maximum number of Notes set out in clause 2.2.

5.10 Overseas Investment Office consent

- (a) The Company agrees not to enter into an agreement prior to the Maturity Date to obtain an interest in land that would result in a Noteholder having to obtain an OIO Consent in respect of the conversion of any or all of their Notes without the prior consent of all Noteholders (not to be unreasonably withheld or delayed).
- (b) On or before 30 June 2019, the Company will engage with the Noteholders to provide a non-binding indication as to whether the Company expects to repay the Notes prior to the Maturity Time or allow the Notes to convert in accordance with clause 5.2 (and must keep the Noteholders apprised of the Company's expectations regarding such matter after such date up to the Maturity Date).
- (c) If the Company indicates to the Noteholders that it expects the Notes may convert in accordance with clause 5.2, each Noteholder which is required to obtain an OIO Consent in respect of such conversion (each a **foreign Noteholder**) must promptly following the later of:
 - (i) the date on which such indication is given to that foreign Noteholder; and
 - (ii) 30 June 2019,

submit an application for OIO Consent. The Company and the foreign Noteholder must use all reasonable endeavours to obtain the OIO Consent prior to the Maturity Time.

- (d) If the conversion of Notes held by the foreign Noteholder requires an OIO Consent, and the foreign Noteholder does not at the Maturity Time (or, if later, the EOD Resolution Date) hold the necessary OIO Consent, then:
- (i) the Company must notify the other Noteholders in writing of that requirement;
 - (ii) such foreign Noteholder must notify the Company in writing of that requirement, and must keep the Company fully informed as to progress in obtaining the OIO Consent and shall, on request, promptly provide the Company with copies of such OIO Consent application and all correspondence with the Overseas Investment Office with respect to its application for OIO Consent;
 - (iii) the conversion of such foreign Noteholder's Notes pursuant to clause 5.2 shall be conditional on such foreign Noteholder obtaining the OIO Consent on terms satisfactory to it (acting reasonably); and
 - (iv) the foreign Noteholder shall be deemed to have served a valid Conversion Notice on the Company in respect of all their then outstanding Notes on the date of receipt of the OIO Consent (or, if later, the EOD Resolution Date).
- (e) The Company shall promptly on demand pay each foreign Noteholder the amount of all costs and expenses (including legal fees) reasonably incurred by that foreign Noteholder on or prior to 31 March 2020 in connection with such Noteholder obtaining any required OIO Consent.
- (f) If a foreign Noteholder has not obtained any required OIO Consent on or prior to the Maturity Date, then notwithstanding anything to the contrary in any Finance Document, the Company may repay all or any portion of the Principal Amount (together with all accrued and unpaid interest) of the Notes held by the foreign Noteholder (**Repayment Notes**) on not less than one Business Day's written notice, and upon the repayment of the aggregate Principal Amount (together with all accrued and unpaid interest) in respect of such Repayment Notes:
- (i) all of the foreign Noteholder's Repayment Notes are automatically cancelled and may not be re-issued; and
 - (ii) no further Notes may be issued (to any person) pursuant to this Agreement.

The Company may issue more than one repayment notice and may make multiple repayments of the foreign Noteholder's Notes.

6. Tax

6.1 Gross-up

If the Company is required by law to make any deduction or withholding on account of tax from any amount paid or payable by it to a Noteholder under a Finance Document (**Tax Deduction**), then:

- (a) provided that the Noteholder has complied with each of its obligations under this clause 6, the amount payable by the Company to the Noteholder shall be increased to the extent necessary to ensure that, after the making of the Tax Deduction, each Noteholder receives and retains a net amount equal to the amount which it would have received and so retained had no such Tax Deduction been required;

- (b) the Company will make the Tax Deduction and any payment required in connection with that Tax Deduction to the relevant taxation or other authority within the time allowed, without incurring a penalty for late payment; and
- (c) the Company shall deliver to the relevant Noteholder within 30 days of making any Tax Deduction or any payment required in connection with the Tax Deduction, evidence satisfactory to the Noteholder (acting reasonably) that the Tax Deduction has been made or (as applicable) any appropriate payment made to the applicable taxation or other authority.

6.2 Notifications and undertakings by each Noteholder

- (a) Each Noteholder must, within 5 days of the date of this Agreement, confirm to the Company:
 - (i) its New Zealand tax file number (if applicable); and
 - (ii) whether it:
 - (A) is a NZ Noteholder; and
 - (B) holds a RWT Exemption Certificate.
- (b) Where a Noteholder is a NZ Noteholder and holds a RWT Exemption Certificate it:
 - (i) undertakes to the Company to use reasonable endeavours to maintain its RWT Exemption Certificate throughout the term of this Agreement if it is lawfully able to do so; and
 - (ii) agrees to promptly notify the Company if it ceases to hold, or ceases to be entitled to hold, a RWT Exemption Certificate.

6.3 Approved issuer levy

The Company may:

- (a) register as an “approved issuer” (as defined in section YA 1 of the Tax Act) and register this Agreement with the Commissioner of Inland Revenue under section 86H of the Stamp Act and use its reasonable endeavours to maintain that status; and
- (b) in respect of any payment of interest (or payment deemed by law to be interest) to Noteholders that are not NZ Noteholders, make the relevant payment of approved issuer levy (as defined in section 86F of the Stamp Act) in accordance with section 86K of the Stamp Act in order to reduce (to the extent permitted by law) the applicable level of non-resident withholding tax to zero percent.

7. Company undertakings

7.1 Use of funds

The Company undertakes that it shall apply all of the proceeds from the issue of any Notes towards business operations, working capital and/or capital expenditure contemplated under a business plan approved by the Board from time to time.

7.2 Notification

The Company agrees to deliver to the Noteholders:

- (a) notification of any Event of Default or any event or circumstance that would or would be reasonably likely to have a material adverse effect, in each case, immediately upon becoming aware of it and, within seven Business Days, provide full details of it and of any action taken (or to be taken) as a result; and

- (b) details of any litigation, arbitration or administrative proceeding affecting it or any Subsidiary that, if it had been current, pending or, to its knowledge, threatened against it, would render the relevant representation in this document incorrect if repeated.

7.3 Compliance with laws

The Company agrees to duly and promptly comply with all applicable laws the non-compliance with which might have a material adverse effect on the Company.

7.4 Negative pledge

The Company must not, and must procure that its Subsidiaries do not, create or permit to subsist any security over all or any of its assets, other than:

- (a) the security granted pursuant to the Finance Documents;
- (b) the security existing as at the date of this Agreement as disclosed to the Noteholders; and
- (c) security interests arising in the ordinary course of business and which:
 - (i) are interests which are deemed to be security interests under section 17(1)(b) of the Personal Property Securities Act 1999 that do not secure the payment or performance of an obligation; or
 - (ii) are security interests granted in favour of a seller of personal property solely over that personal property, and securing payment of part or all of the purchase price of that property
- (d) a lien arising by operation of law;
- (e) a right of set off or combination arising by operation of law or practice over money deposited with a bank or financial institution in the ordinary course of its business; and
- (f) any security consented to by the Noteholders, acting reasonably.

8. Default

8.1 Events of Default

There will be an event of default if at any time any of the following events occur:

- (a) an Obligor fails to pay an amount payable by it under a Finance Document when due or if the failure is due to a technical or administrative error beyond the control of the Obligors, within three Business Days after it falls due;
- (b) an Obligor commits any breach of, or omits to observe, any of its undertakings or obligations under a Finance Document and, in respect of any such breach or omission which is capable of being remedied, such breach or omission is not remedied within:
 - (i) in the case of any breach or omission relating to clause 7.1, five Business Days of the date an Obligor became aware of such breach or omission; and
 - (ii) in all other cases, 30 Business Days of the date an Obligor became aware of such breach or omission;
- (c) an event of default (however described) occurring under any Finance Document;
- (d) any representation, warranty or statement made or deemed to have been made or repeated by or on behalf of an Obligor at any time under or in connection with a Finance Document is or proves to have been untrue, inaccurate or misleading in any material respect, when made or repeated or deemed to have been made or repeated and, if the circumstances that resulted in such representation, warranty or statement being untrue, inaccurate or

misleading are capable of remedy, those circumstances have not been remedied to all Noteholders' satisfaction within 30 Business Days of the date an Obligor became aware of it;

- (e) an Insolvency Event occurs in respect of an Obligor;
- (f) any indebtedness for borrowed money in excess in aggregate of \$250,000 of an Obligor is not paid when due or within any applicable grace period in any document relating to such indebtedness, or becomes (or becomes capable of being rendered) due and payable before its stated maturity by reason of an event of default, cancellation event or similar event (however described);
- (g) any Finance Document:
 - (i) ceases to be, or is claimed by the Company not to be, in full force and effect or has, or is claimed by the Company to have, effect otherwise in accordance with its terms;
 - (ii) becomes, or is claimed by the Company to be, void, voidable, illegal or unenforceable; or
 - (iii) is repudiated.

8.2 Effect of an Event of Default

If an Event of Default occurs and is subsisting, subject always to the terms of the Finance Documents, a Noteholder may by notice to the Company do one or more of the following:

- (a) exercise its rights pursuant to clause 0; and
- (b) exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

9. Cancellation and discharge

9.1 Discharge and release

The Company is immediately discharged and released from its liabilities, obligations and covenants under this Agreement in respect of a Noteholder (the **Relevant Noteholder**) on the date on which:

- (a) all outstanding Notes issued to the Relevant Noteholder have either been:
 - (i) converted under clause 5; or
 - (ii) repaid under clause 3; and
- (b) no other amounts remain owing to the Relevant Noteholder under this Agreement.

9.2 Cancellation

All Notes that are repaid or converted are automatically cancelled on repayment or conversion and may not be re-issued.

10. Transfer of Notes

10.1 Consent to transfer

A Noteholder may not transfer any Notes to any person at any time, other than with the prior written consent of the Company, except a Noteholder shall be entitled to transfer all of its outstanding Notes without the written consent of the Company pursuant to a takeover offer

regulated by the Takeovers Code, or a scheme of arrangement pursuant to the Companies Act 1993, in which case that Noteholder shall also be entitled to transfer to the transferee:

- (a) all of that Noteholder's rights and obligations under this Agreement (including any Notes not issued); and
- (b) all of that Noteholder's rights and obligations under the security held by it in respect of those Notes, together with that Noteholder's rights and obligations under the Security Sharing Deed.

10.2 Transfer

Subject to clause 10.1, Notes may be transferred:

- (a) by written transfer instrument in any usual or common form or in any other form approved by the Board, executed by the transferor and the transferee; and
- (b) to a person or entity that has executed and delivered to the Company an undertaking to observe, perform and be bound by the terms of this Agreement.

10.3 Note Certificates

A written transfer instrument must be forwarded for registration to the Company together with the Note Certificate(s) for the Notes to be transferred. Upon receipt, the Company shall immediately register the transfer and issue a Note Certificate to the transferee for the number of Notes comprised in the transfer and, if necessary, a new Note Certificate to the transferor for its remaining holdings.

11. Warranties

11.1 Warranties

The Company represents and warrants, in respect of itself and its other Obligors, to each Noteholder that each of the following statements is true and accurate as at the date of this Agreement:

- (a) it is validly existing under the laws of New Zealand;
- (b) it has the power and authority to enter into and perform and comply with its obligations under the Finance Documents and to carry out the transactions contemplated by the Finance Documents;
- (c) it has taken all necessary action to authorise its entry into and performance of the Finance Documents and to carry out the transactions contemplated by the Finance Documents;
- (d) its obligations under the Finance Documents are valid and binding and enforceable against it;
- (e) the entry into, execution and performance of its obligations under the Finance Documents does not and will not violate any other agreement which is binding on it, its constitution, or any law or directive to which it or its assets are subject (including, for the avoidance of doubt, any stock exchange rules);
- (f) it is solvent and able to pay its debts as they fall due and, so far as it is aware, no steps have been taken or threatened against it for its dissolution or for the appointment of a liquidator, inspector, receiver, administrator, statutory manager or similar officer;
- (g) it does not have any interest in land that would result in BioScience having to obtain an OIO Consent in respect of the conversion of any or all of its Notes to Shares pursuant to clause 5.2 of this Agreement; and

- (h) no Event of Default has occurred.

11.2 Repetition

The warranties and representations in clause 11.1 will be deemed to be repeated on each Note Issue Date, and on each date that a payment is to be made to any Noteholder under this Agreement, by reference to the facts and circumstances existing on those dates.

12. Costs and expenses

12.1 Other costs indemnity

The Company agrees to indemnify, and to pay or reimburse on demand, each Noteholder for all costs and other liabilities incurred or sustained by the Noteholder in connection with:

- (a) **(documents)** the administration, registration and other completion of, and any consent, approval, waiver or amendment of or under, a Finance Document;
- (b) **(enforcement and exercise of rights)** any actual, attempted or contemplated:
 - (i) enforcement of any Finance Document; or
 - (ii) exercise, preservation or consideration of any power under or pursuant to any Finance Document or at law (including expenses and liabilities resulting from a mistake or error of judgment);
- (c) **(defaults)** a default, or a breach of or obtaining or procuring performance or satisfaction of, an Obligor's obligations under any Finance Document;
- (d) **(enquiry)** any enquiry by a government agency involving an Obligor or any transaction or activity with which the monies advanced under this Agreement is connected (including any secured property); and
- (e) **(releases)** the release of any secured property from the security created under any Finance Document.

12.2 Survival of indemnities

- (a) Each indemnity in this Agreement is:
 - (i) unconditional and irrevocable; and
 - (ii) a continuing and separate obligation which will survive termination, release or discharge of this document or any other Finance Document and payment of all other money owing.
- (b) A Noteholder need not make a payment before enforcing an indemnity or reimbursement obligation in this Agreement.

13. Notices and other communications

13.1 Service of notices

A notice, demand, consent, approval or communication under this Agreement (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post or email to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.

13.2 Effective on receipt

A Notice given in accordance with clause 13.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, the third Business Day after the date of posting (or the seventh Business Day after the date of posting if posted to or from a place outside New Zealand); and
- (c) if sent by email, on the date and time at which it enters the recipient's information system (as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the recipient notified for the purposes of this clause),

but if the delivery, receipt or transmission is not on a Business Day, or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day. Any Notice received by OFM is deemed to have been received by BMV on the same date and at the same time. Similarly, any Notice received by BMV is deemed to have been received by OFM on the same date and at the same time. If a Notice is received by both parties, the earliest received Notice shall prevail.

14. Trustee limitation of liability

The parties acknowledge and agree that:

- (a) the Trustee enters into this document in the capacity as trustee of the Trust and in no other capacity;
- (b) except in the case of any liability of the Trustee under or in respect of this document resulting from the Trustee's fraud, negligence or wilful default, the recourse for any person to the Trustee in respect of any obligations and liabilities of the Trustee under or in respect of this document is limited to the extent to which the Trustee is entitled to be and is in fact indemnified from the assets of the Trust. This limitation of the Trustee's liability applies despite any other provisions of this document and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, past and future conduct, omission, agreement or transaction related to this document; and
- (c) if any party (other than the Trustee) does not recover the full amount of any money owing to it arising from non-performance by the Trustee of any of its obligations, or non-payment by the Trustee of any of its liabilities, under or in respect of this document by enforcing the rights referred to in clause 14(b) that party may not (except in the case of fraud, negligence or wilful default by the Trustee) seek to recover the shortfall by:
 - (i) bringing proceedings against the Trustee in its personal capacity;
 - (ii) seeking to appoint a liquidator, an administrator, a receiver or any similar person to the Trustee (except in relation to the assets of the Trust); or
 - (iii) applying to have the Trustee wound up.

15. Miscellaneous

15.1 Business Days

If any payment by the Company falls due on a day which is not a Business Day it will be made on the next succeeding Business Day.

15.2 Reinstatement

If any payment by the Company to a Noteholder under this Agreement is avoided by law:

- (a) the Company's obligation to have made such payment will be deemed not to have been affected or discharged; and
- (b) that Noteholder and the Company will, in any such case, be deemed to be restored to the position in which each would have been, and will be entitled to exercise the rights they respectively would have had, if that payment had not been made.

15.3 In trade

Each party confirms that it is:

- (a) in trade; and
- (b) acting in trade in relation to the transactions contemplated by this Agreement,

and agrees that sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 shall not apply in relation to this Agreement or as between the parties, and it is fair and reasonable to exclude their application.

15.4 Purposes of business

Each party confirms that it is entering into this Agreement for the purposes of a business and that the Consumer Guarantees Act 1993 does not apply, and the parties will, to the maximum extent permitted by law, exclude the application of the Consumer Guarantees Act 1993 from all agreements between the parties that in any way relate to the subject matter of this Agreement.

15.5 Alterations

This Agreement may be altered only in writing signed by each party. For the avoidance of doubt no amendments shall be made in application to one Noteholder unless the other Noteholders are given the opportunity to have such amendments apply to them on the same basis. Unless expressly agreed, no variation shall constitute a general waiver of any provision of this Agreement nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of variation.

15.6 Approvals and consents

Except where this Agreement expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Agreement.

15.7 No assignment by Company

The Company may not assign, transfer or otherwise deal with any of their rights or obligations under this document or any other Finance Document without the Noteholders' prior written consent.

15.8 Counterparts

This Agreement may be executed in counterparts (including by electronic transmission). All executed counterparts constitute one document. The parties agree for the purposes of Part 4 of the Contract and Commercial Law Act 2017 to be bound by any agreement reached through electronic means.

15.9 No merger

The rights and obligations of the parties under this Agreement do not merge on completion of any transaction contemplated by this Agreement.

15.10 Entire agreement

- (a) The Finance Documents constitute the entire agreement between the parties in connection with their subject matter and supersedes all previous agreements, representations, undertakings, contracts, arrangements, promises, or understandings between the parties in connection with their subject matter.
- (b) The parties have not relied on any representation, warranty or agreement relating to the subject matter of the Finance Documents that is not expressly set out in a Finance Document, and no such representation, warranty or agreement has any effect from the date of this Agreement.

15.11 Rights several

The rights of each Noteholder are several. The amount at any time owing by the Company to any party under this Agreement shall be a separate and independent debt from the amount owing to any other party.

15.12 Obligations several

The obligations of each Noteholder under this Agreement are several. No party to this Agreement shall be responsible for the obligations of any other party except as expressly provided otherwise in this Agreement.

15.13 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents and passing all resolutions) to give full effect to the Finance Documents and any transaction contemplated by them.

15.14 Severability

To the extent that any term or part of a term of this Agreement would be valid or enforceable under the law if that term was read down, then that term must be read down to the minimum extent necessary to achieve that result. If that term cannot be read down, then that term may be severed from this Agreement and the remaining terms or parts of the term of this Agreement continue in force.

15.15 Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

15.16 Relationship

Except where this Agreement expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.

15.17 Governing law and jurisdiction

This Agreement is governed by the law of New Zealand and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New Zealand.

[Signature page follows]

Signing page

EXECUTED as an agreement

[Intentionally left blank]

Schedule 1– Request Notice

SEADRAGON LIMITED LOAN NOTES – REQUEST NOTICE

To: *[Insert]* (the **Noteholder**)

REQUEST FOR SUBSCRIPTION OF *[INSERT]* LOAN NOTES OF \$1.00 EACH (**Notes**)

SeaDragon Limited requests that the Noteholder subscribes for the following Notes under the convertible loan note agreement dated 30 May 2016 (as amended and restated as of 30 June 2018 and further amended and restated on [] 2018) (**Agreement**):

Number of Notes to be subscribed for: *[#] Notes [Note: Must be in a minimum amount of 500,000 unless otherwise agreed]*

Date Notes to be issued: *[#] [Note: Request Notice must be provided at least 5 Business Days prior to the Note Issue Date]*

By countersigning this notice, the Noteholder accepts the request and will subscribe for the Notes detailed above.

The Notes will be issued by SeaDragon Limited on and subject to the terms and conditions contained in the Agreement.

Dated

SIGNED on behalf of **SEADRAGON LIMITED** by:

Signature of director

Name of director

ACCEPTANCE:

SIGNED on behalf of **THE NOTEHOLDER** by: *[Insert signing block for Noteholder]*

Date:

Schedule 2 – Note Certificate

SEADRAGON LIMITED

ISSUE OF [INSERT] LOAN NOTES OF \$1.00 EACH (Notes)

This certifies that [Insert] is registered as a holder of [Insert] Notes under the convertible loan note agreement dated 30 May 2016, as amended and restated as of 30 June 2018 and further amended and restated on [] 2018 (Agreement).

The Notes are issued by SeaDragon Limited on and subject to the terms and conditions contained in the Agreement.

Dated

SIGNED on behalf of **SEADRAGON LIMITED** by:

Signature of director

Name of director

Schedule 3 – Conversion Notice

To: SeaDragon Limited

We refer to the convertible loan note agreement dated 30 May 2016, as amended and restated as of 30 June 2018 and further amended and restated on [Insert] 2018 (**Convertible Loan Note Agreement**). Terms defined in the Convertible Loan Note Agreement have the same meanings when used in this Conversion Notice.

We give notice, under clause 5 of the Convertible Loan Note Agreement, of the exercise of our right to convert all of our Notes.

Dated

SIGNED on behalf of [INSERT]by:

Signature of director

Name of director